

Zhang et al.

S/N: 09/681,480

**REMARKS**

Claims 1-31 are pending in the present application. In the Office Action mailed January 25, 2005, the Examiner rejected claims 1-5, 8-12, 24, and 26-28 under 35 U.S.C. §102(e) as being anticipated by Tardo et al. (USP 6,557,105). The Examiner next rejected claims 6-7, 13, 15-18, 22-23, and 25 under 35 U.S.C. §103(a) as being unpatentable over Tardo et al. Claims 14, 21, and 29 were rejected under 35 U.S.C. §103(a) as being unpatentable over Tardo in view of Spix et al. (USP 5,179,702).

The Examiner rejected claims 1-5, 8-12, 24, and 26-28 as being anticipated by Tardo et al. Tardo et al. discloses an apparatus and method for cryptographic-based license management. In this regard, Tardo et al. teaches "a client device 102 (e.g., user device) which is operatively coupled to a gateway interface device 104 via a communication link." Col. 3, lns. 17-19. "The gateway interface device 104 further provides for communication between the gateway interface device 104 and the Licensing Authority (LA) 108. The Licensing Authority (LA) 108 is configured to issue licenses...for enabling the use of select gateway product options 116 (e.g., software options and services, hardware options, software products, network services, etc.) associated with or maintained on the gateway interface device." Col. 4, lns. 5-14. In this regard, "the gateway interface device 104 is configured to contain a series of gateway product options 116 (e.g., software options and services, hardware options, software products, network services, etc.) which may be activated in response to a valid license issued by the remote Licensing Authority (LA) 108." Col. 4, lns. 15-19.

Tardo et al. further teaches that "the Licensing Authority (LA) 108 is configured to receive a gateway product option request from the client device 102 associated with the gateway interface device 104." Col. 4, lns. 63-65. Tardo et al. also teaches that the gateway product option request may also come directly from the gateway interface device. See col. 4, lns. 66-67. In any event, "in response to the gateway product option request, the Licensing Authority (LA) 108 generates a license which is configured to enable or activate particular gateway product options 116 specified in the gateway product option request..." Col. 5, lns. 7-10 (emphasis added). That is, the Licensing Authority (LA) issues a license that enables or otherwise activates options of the gateway interface device – not the client device. Tardo et al. teaches that the product option request may come from the client device or the gateway interface device, but the product option to be enabled is a gateway interface device option – not a client device option.

Zhang et al.

S/N: 09/681,480

That is, Tardo et al. teaches a license management system whereby a user of a client-device may request activation or enablement of a product option of a gateway interface device. These products options are identified as "software options and services, hardware options, software products, network services, etc." Col. 4, lns. 10-12. Moreover, these product options are of the gateway interface device to be accessed by a client-device, but are not product options of the client-device.

Tardo et al. provides a number of examples of contemplated gateway product options. In one example, the gateway product option is "an operational software package, such as an Internet content filtering software package, for filtering the type of information that is able to be received by the client device 102." Col. 4, lns. 28-31. In yet another example "a gateway product option 116 may comprise a gateway security service such as a data encryption service which automatically protects client device data as the data traverses the external network 110 in an instance of communication with a peer gateway interface device 104." Col. 4, lns. 31-37. Tardo et al. then summarily teaches that "it is envisioned that a wide variety of different gateway product options 116 may be provided by the gateway interface device 104 in accordance with the needs or desires of a particular set of users or client devices 102." Col. 4, lns. 37-41. Thus, it is clear that Tardo et al. not only distinguishes between client-devices and gateway interface devices, but is also clear that the product options are of the gateway interface device and not the client-device.

In contrast, claims 1 and 24 call for a method and apparatus whereby access is conditionally granted to an option resident in a client-device. Claims 1 and 24, as amended, call for a method and apparatus, respectively, whereby a client-device or the user of the client-device submits an access request to a centralized facility seeking access to a disabled option of the client-device. This is in stark contrast to that disclosed by Tardo et al. That is, the art of record explicitly teaches that a client-device may make a request for option enablement, but the option to be enabled is of a gateway interface device and not the client-device itself. Thus, it is clear that Tardo et al. describes a system starkly different from that which is claimed. Tardo et al. teaches a license management system whereby options of a gateway or intermediary device are enabled and not options of a client-device. In fact, Tardo et al. neither teaches nor suggests that a client-device may be constructed to have disabled options. Accordingly, it is believed that claims 1 and 24 call for subject matter patentably distinct from the art of record. Allowance thereof is therefore requested.

Zhang et al.

S/N: 09/681,480

Claims 6-7, 13, 15-18, 22-23, and 25 stand rejected as being unpatentable over Tardo et al. The Examiner concluded that "it would have been obvious to person of ordinary skill in the art at the time the invention was made employ pay-per-period because it restricts user to access the time to specific time period thus preventing time abuse usage." Office Action, p. 4. As claims 6-7, 13, 16-18, 22-23, and 25 depend from what are believed otherwise allowable claims, for the sake of brevity, the following remarks will be directed to the rejection of independent claim 15. In short, Applicant respectfully disagrees with the conclusion reached by the Examiner.

Tardo et al. explicitly teaches that "the Licensing Authority (LA) generates a license token 122 containing licensing token data 124 that is used to enable the specified gateway product options 116 of the gateway interface device 104." Col. 11, lns. 61-64. Tardo et al. further teaches that the license token data includes information regarding license duration, identity of the particular gateway product option, the identity of the gateway interface device, configuration information, as well as additional option data associated with the particular gateway product option or options. See col. 11, lns. 66-67 – col. 12, lns. 1-6. There is no suggestions whatsoever in Tardo et al. that the license duration contemplates a pay-per-use basis of use for a predetermined time period. That is, Applicant agrees that Tardo et al. teaches a license of limited duration; however, Tardo et al. neither teaches nor suggests anything but unfettered use of the licensed option during the period of the license grant. Moreover, Tardo et al. neither teaches nor suggests any mechanism for monitoring and tracking usage of the product option once it is enabled. The Examiner's conclusion that Tardo et al. is suggestive of a pay-per-use basis of use stems solely from Applicant's own disclosure as there is nothing in the reference itself to support the Examiner's conclusion. In other words, the Examiner is applying impermissible hindsight to substantiate the rejection of claim 15 as being unpatentable over Tardo et al. It is well-established that the application of such "hindsight" cannot support an obviousness rejection. As such, Applicant requests that the Examiner's rejection be withdrawn and that claim 15 be allowed.

With respect to the rejection of the dependent claims, Applicant respectfully disagrees with the Examiner with respect to the art as applied, but in light the claims dependency from otherwise allowable claims, Applicant does not believe additional remarks are necessary and requests allowance of claims 2-14, 16-24, and 25-31 at least pursuant to the chain of dependency.

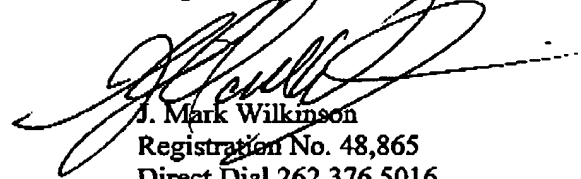
Zhang et al.

S/N: 09/681,480

In light of at least the foregoing, Applicant respectfully believes that the present application is in condition for allowance. As a result, Applicant respectfully requests timely issuance of a Notice of Allowance for claims 1-31.

Applicant appreciates the Examiner's consideration of these Amendments and Remarks and cordially invites the Examiner to call the undersigned, should the Examiner consider any matters unresolved.

Respectfully submitted,



J. Mark Wilkinson  
Registration No. 48,865  
Direct Dial 262.376.5016  
jmw@zpspatents.com

Dated: March 23, 2005  
Attorney Docket No.: GEMS8081.062

**P.O. ADDRESS:**  
Ziolkowski Patent Solutions Group, SC  
14135 North Cedarburg Road  
Mequon, WI 53097-1416  
262-376-5170